

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION**

DAMMEION CLARK

v.

**INTERNATIONAL PAPER
COMPANY**

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CIVIL ACTION NO. 1:23-cv-237

NOTICE OF REMOVAL

Defendant, International Paper Company (“IP”), files this Notice of Removal pursuant to 28 U.S.C. §§ 1332, 1441 and 1446.

I. INTRODUCTION

1. On January 23, 2023, Plaintiff, Dammeion Clark (“Clark”), filed Plaintiff’s Original Petition in Cause No. 230015-C, *Dammeion Clark v. International Paper Company*, pending in the 260th Judicial District Court of Orange County, Texas, (the “State Court Action”).

2. Clark has sued IP in negligence for injuries sustained while Clark was in the course and scope of her employment for non-party, Rexnord Corporation.

3. Clark filed and served on IP a First Amended Petition on May 31, 2023 (the “Complaint”), which is the first time jurisdictional facts revealing a basis for removal was apparent from the face of the pleading, *i.e.*, it included a specified amount in controversy. Therefore, because this notice is filed less than thirty days from service of the Complaint, this Notice of Removal is timely filed pursuant 28 U.S.C. § 1446(b)(3).

II. BASIS FOR REMOVAL: DIVERSITY JURISDICTION

4. Removal of the State Court Action to this Court is proper pursuant to 28 U.S.C. §§ 1332 and 1441(a) and (b) because (1) there is complete diversity between IP and Clark and (2) the amount in controversy exceeds \$75,000, exclusive of interest and costs.

A. Complete diversity exists between Clark, a Louisiana resident, and IP, a New York corporation with a principal place of business in Tennessee.

5. The State Court Action may be removed to this Court because this Court has jurisdiction under 28 U.S.C. § 1332.

6. Clark alleges and concedes she lives in, and is thus domiciled, in Louisiana. Exhibit B-7 at ¶ 2.1. Therefore, Clark is a citizen of Louisiana for purposes of diversity jurisdiction. IP is a New York corporation with a principal business address at 6400 Poplar Ave, Memphis, Tennessee 38197. Therefore, IP is a citizen of New York and Tennessee for purposes of diversity jurisdiction.

7. Because Clark is a citizen of Louisiana and IP is a citizen of New York and Tennessee, complete diversity exists. *See* 28 U.S.C. § 1332(a)(1).

B. The amount in controversy exceeds \$75,000.

8. Diversity jurisdiction is proper if “‘it is facially apparent’ from the plaintiffs’ complaint that their ‘claims are likely above [\$75,000].’” *Govea v. JPMorgan Chase Bank, N.A.*, No. CIV.A. H-10-3482, 2010 WL 5140064, at *2 (S.D. Tex. Dec. 10, 2010) (quoting *Garcia v. Koch Oil Co. of Tex. Inc.*, 351 F.3d 636, 639 (5th Cir. 2003)). Indeed, IP need only establish by a preponderance of the evidence that the amount in controversy exceeds \$75,000. *Garcia*, 351 F.3d at 639 (quoting *De Aguilar v. Boeing Co.*, 11 F.3d 55, 58 (5th Cir. 1993)).

9. Clark’s Complaint avers that Clark seeks monetary relief over \$1,000,000. Exhibit B-7 at ¶ 6.00. Thus, the amount in controversy clearly exceeds \$75,000.

10. Accordingly, IP has shown complete diversity exists and that the amount in controversy exceeds the Court’s jurisdictional threshold. Thus, removal is proper on the basis of diversity jurisdiction.

III. VENUE

11. Venue for removal is proper in this district and division under 28 U.S.C. § 1441(a) and 28 U.S.C. § 124(b)(2) because this district and division embrace the 260th Judicial District Court of Orange County, Texas, the forum in which the State Court Action is pending.

IV. ADDITIONAL REQUIREMENTS

12. Pursuant to 28 U.S.C. § 1446(a) and Local Rule CV-81, this notice of removal is accompanied by copies of the following:

Exhibit A:	Listing of All Parties and Counsel of Record;
Exhibit B:	Index of Documents Filed in State Court Action;
Exhibits B-1–B-7:	Copies of filings in State Court Action;
Exhibit C:	Record of Jury Trial Requests
Exhibit D:	Name and Address of Court from which case was removed

13. IP will serve this Notice of Removal on Clark and will file it with the District Clerk of Orange County, Texas.

14. Therefore, IP gives notice that the above-referenced action now pending against it in the 260th Judicial District Court of Orange County, Texas has been removed to this Court.

15. By this Notice of Removal, IP does not waive any objections it may have as to service, or any other defenses or objections it may have to this action. IP intends no admission of fact, law or liability by this Notice, and expressly reserves all defenses, objections, motions and/or pleas.

Respectfully submitted,

By: /s/ Kimberly A. Chojnacki

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on June 20, 2023, a true and correct copy of the foregoing document has been served in accordance with the Federal Rules of Civil Procedure via the Court's CM/ECF System on all counsel of record.

/s/ Kimberly A. Chojnacki

Kimberly A. Chojnacki